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**20091668544**



Pages:  
0019

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Recorder's Office, Los Angeles County,  
California

11/05/09 AT 08:00AM

FEES:	0.00
TAXES:	0.00
OTHER:	0.00
PAID:	0.00



LEADSHEET



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002389030

SEQ:  
17

DAR - Title Company (Hard Copy)



THIS FORM IS NOT TO BE DUPLICATED

t72

RECORDING REQUESTED BY:

Boardwalk Company, LLC  
659 W Lee Blvd  
Prescott, AZ 86303-6766

11/05/2009



\*20091668544\*

WHEN RECORDED, MAIL TO:

Department of Toxic Substances Control  
9211 Oakdale Avenue  
Chatsworth, California 91311  
Attention: Richard Gebert  
Rosen's Electric Site Project Manager  
Brownfields and Environmental Restoration  
Program, Chatsworth Office

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

## COVENANT TO RESTRICT USE OF PROPERTY

### ENVIRONMENTAL RESTRICTION

Re: County of Los Angeles APN 6348-021-006, Rosen's Electrical Equipment  
Company, 300369-00

This Covenant and Agreement ("Covenant") is made by and between Boardwalk Company, LLC, a California limited liability company (the "Covenantor"), the current owner of property situated in the City of Pico Rivera, County of Los Angeles, State of California, described in Exhibit "A", attached hereto and incorporated herein by this reference (the "Property"), and the Department of Toxic Substances Control (the "Department") Pursuant to Civil Code section 1471, the Department has determined that this Covenant is reasonably necessary to protect present or future human health or safety or the environment as a result of the presence on the land of hazardous materials as defined in Health and Safety Code section 25260. The Covenantor and Department, collectively referred to as the "Parties", hereby agree, pursuant to Civil Code section 1471, and Health and Safety Code section 25355.5 that the use of the Property be restricted as set forth in this Covenant; and the Parties further agree that the Covenant shall conform with the requirements of California Code of Regulations, title 22, section 67391.1.

ARTICLE I  
STATEMENT OF FACTS

1 01. The Property, totaling approximately three acres and is more particularly described and depicted in Exhibit "A," attached hereto and incorporated herein by this reference. The Property is located in the area now generally bounded by Whittier Boulevard on the north, Van Norman Road on the west, Metrolink railroad tracks on the south, and a bakery on the east, in Los Angeles County, State of California. The Property is also generally described as Los Angeles County Assessor's Parcel No. 6348-021-006.

1 02. A limited portion of the Property is more particularly described and depicted in Exhibit "B" and Exhibit "C," which are attached and incorporated by this reference and hereafter referred to as the "Restricted Area." The Restricted Area is located in the area now generally bounded by a drainage ditch on the east, the northern boundary of the transformer repair building on the north, the machine shop on the west, and the Union Pacific Railroad Right of Way on the south, and contains an area referred to as Area of Concern #1 (AOC #1).

1 03. The Rosen's Electrical Equipment Company Responsible Party Group (REEC Group) remediated the Property under the supervision and authority of the Department. The Property was remediated pursuant to a Remedial Action Plan (RAP) pursuant to Health and Safety Code, division 20, chapter 6.8 under the oversight of the Department. Because hazardous substances, as defined in Health and Safety Code section 25316, which are also hazardous materials as defined in Health and Safety Code section 25260, including volatile organic compounds, total petroleum hydrocarbons, chlorinated benzenes and polychlorinated biphenyls, remain in the soil and groundwater in and under portions of the Property, the RAP provided that a Covenant be required as part of the site remediation. The Department circulated the RAP, which contains a Health Risk Assessment, together with a draft negative declaration pursuant to the California Environmental Quality Act, Public Resources Code section 21000 et seq. for public review and comment. The RAP and the negative declaration were approved by the Department on December 16, 2004. Remediation included installing and maintaining a synthetic membrane cover ("Cap") over an area in AOC #1. The Cap consists of a low permeability synthetic membrane and other associated layers, as more particularly described in the engineering drawing attached as

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Exhibit "D" hereto. The response action also includes groundwater monitoring wells ("Monitoring Wells"). The location of the Monitoring Wells are shown on Exhibit "E". The maintenance of the Cap and Monitoring Wells is pursuant to the Department approved Operation and Maintenance Plan dated April 2007 (Operation and Maintenance Plan).

1.04 As detailed in the RAP a portion of the surface and subsurface soils within 10 feet of the surface of the Property contain hazardous substances, as defined in Health and Safety Code section 25316, which include the following contaminants of concern in the ranges set forth below: polychlorinated biphenyls (PCBs) (0.2 - 280 parts per million ("ppm"), and 1,4 dichlorobenzene, (4.2 ppm). Based on the Final Risk Assessment the Department concluded that use of the Restricted Area as a residence, hospital, school for persons under the age of 21 or day care center would entail an unacceptable cancer risk. The Department further concluded that the Restricted Area, as remediated, and subject to the restrictions of this Covenant, does not present an unacceptable threat to human safety or the environment, if limited to commercial and industrial use.

Groundwater at the Property is found 20 to 40 feet below ground surface. Contaminants in the groundwater include PCBs (2.8 parts per billion ("ppb"), benzene (11.6 ppb), chlorobenzene (495 ppb), 1-4 dichlorobenzene (22 ppb), and 1-3 dichlorobenzene (12.6 ppb). California drinking water standards are PCBs at 0.5 ppb, benzene at 1 ppb, chlorobenzene at 30 ppb, 1-4 dichlorobenzene at 5 ppb, and 1-3 dichlorobenzene at 20 ppb.

## ARTICLE II DEFINITIONS

2.01. Department. "Department" means the California Department of Toxic Substances Control and includes its successor agencies, if any.

2.02. Environmental Restrictions. "Environmental Restrictions" means all protective provisions, covenants, restrictions, prohibitions, and terms and conditions as set forth in any section of this Covenant.

2.03. Governmental Respondents. "Governmental Respondents" shall mean and refer to the City of Anaheim, the City of Los Angeles Department of Water and Power, the

City of Pasadena, and the Sacramento Municipal Utility District.

2.04. Improvements "Improvements" includes, but is not limited to: buildings, structures, roads, driveways, improved parking areas, wells, pipelines, or other utilities

2.05. Lease "Lease" means lease, rental agreement, or any other document that creates a right to use or occupy any portion of the Property.

2.06. Non-Governmental Respondents "Non-Governmental Respondents" shall mean and refer to Rosen's Electrical Equipment Company, a California limited partnership; Pacific Gas and Electric Company, a California corporation; Southern California Edison Company, a California corporation; and San Diego Gas & Electric, a Sempra Utility

2.07. Occupant "Occupant" means Owners and any person or entity entitled by ownership, leasehold, or other legal relationship to the right to occupy any portion of the Property

2.08. Owner "Owner" means the Covenantor, its successors in interest, and their successors in interest, including heirs and assigns, who at any time hold title to all or any portion of the Property

2.09. Rosen's Electrical Equipment Company Responsible Party Group (REEC Group) "Rosen's Electrical Equipment Company Responsible Party Group (REEC Group)" is composed of and shall mean and refer to the Non-Governmental Respondents, the Governmental Respondents

### ARTICLE III GENERAL PROVISIONS

3.01. Runs with the Land This Covenant sets forth Environmental Restrictions, that apply to and encumber the Property and every portion thereof no matter how it is improved,

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held, used, occupied, leased, sold, hypothecated, encumbered, or conveyed. This Covenant: (a) runs with the land pursuant to Health and Safety Code section 25355.5 and Civil Code section 1471; (b) inures to the benefit of and passes with each and every portion of the Property, (c) is for the benefit of, and is enforceable by the Department, and (d) is imposed upon the entire Property unless expressly stated as applicable only to a specific portion thereof.

3.02. Binding upon Owners/Occupants. Pursuant to the Health and Safety Code, this Covenant binds all owners of the Property, their heirs, successors, and assignees, and the agents, employees, and lessees of the owners, heirs, successors, and assignees. Pursuant to Civil Code section 1471, all successive owners of the Property are expressly bound hereby for the benefit of the Department.

3.03. Written Notice of the Presence of Hazardous Substances. Prior to the sale, lease or sublease of the Property, or any portion thereof, the owner, lessor, or sublessor shall give the buyer, lessee, or sublessee written notice of the existence of this Covenant and its Environmental Restrictions.

3.04. Incorporation into Deeds and Leases. This Covenant and its Environmental Restrictions shall be incorporated by reference in each and every deed and Lease for any portion of the Property.

3.05. Conveyance of Property. The Owner shall provide written notice to the Department not later than thirty (30) days after any conveyance of any ownership interest in the Property (excluding Leases, and mortgages, liens, and other non-possessory encumbrances). The written notice shall include the name and mailing address of the new owner of the Property and shall reference the site name and site code as listed on page one of this Covenant. The notice shall also include the Assessor's Parcel Number (APN) noted on page one. If the new owner's property has been assigned a different APN, each such APN that covers the Property must be provided. The Department shall not, by reason of this Covenant, have authority to approve, disapprove, or otherwise affect proposed conveyance, except as otherwise provided by law, by administrative order, or by a specific provision of this Covenant.

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3 06 Costs of Administering the Covenant The Department has already incurred and will in the future incur costs associated with the administration of this Covenant. Therefore, the Owner hereby covenants for himself and for all subsequent Owners that, pursuant to California Code of Regulations, title 22, section 67391 1(h), the Owner agrees to pay the Department's cost in administering the Covenant. However, Owner shall not be obligated to pay such costs as long as costs for administering this Covenant are paid by the REEC Group parties pursuant to Consent Agreement (Docket No. HSA-CA 08/09-130)

#### ARTICLE IV RESTRICTIONS

4.01 Prohibited Uses The Restricted Area shall not be used for any of the following purposes:

- (a) A residence, including any mobile home or factory built housing, constructed or installed for use as residential human habitation
- (b) A hospital for humans or a hospice
- (c) A public or private school for persons under 21 years of age.
- (d) A day care center for children.

#### 4.02. Soil Management

- (a) No activities that will disturb the soil (e.g., excavation, grading, removal, trenching, filling, earth movement or mining) shall be allowed on the Restricted Area without a Soil Management Plan approved by the Department
- (b) Any contaminated soils brought to the surface by grading, excavation, trenching or backfilling shall be managed in accordance with all applicable provisions of state and federal law
- (c) The Owner shall provide the Department written notice at least fourteen (14) days prior to any building activity that could disturb the soil or the Cap in the Restricted Area, or filling, grading, mining or excavating activities to be conducted in the Restricted Area

4 03 Prohibited Activities The following activities shall not be conducted at the Property:

- (a) Extraction or use of groundwater without prior review and written approval of the Department.

4 04. Non-Interference with Cap and Groundwater Monitoring Wells Owner agrees:

- (a) Activities that may disturb the Cap (e.g. excavation, grading, removal, trenching, filling, earth movement, or mining) shall not be permitted on the Restricted Area without prior review and approval by the Department
- (b) Activities that may disturb the Groundwater Monitoring Wells (e.g. building, concealing, removal, or filling) shall not be permitted on the Property without prior written approval by the Department.
- (c) All uses and development of the Property shall preserve the integrity and physical accessibility of the Cap and Monitoring Wells
- (d) The Cap shall not be altered without written approval by the Department
- (e) The Non-Governmental Respondents or the Governmental Respondents or any one of them, and if not one of those entities then the Owner, shall notify the Department of each of the following: (i) the type, cause, location and date of any damage to the Cap or Monitoring Wells and (ii) the type and date of repair of such damage. Notification to the Department shall be made as provided below within ten (10) working days of both the discovery of any such disturbance and the completion of any repairs. Timely and accurate notification by any person falling within the definition of Owner or Occupant shall satisfy this requirement on behalf of all persons falling within the definition of Owner and Occupant

4.05. Access for Department The Department shall have reasonable right of entry and access to the Property for inspection, monitoring, and other activities consistent with the purposes of this Covenant as deemed necessary by the Department in order to protect the public health or safety, or the environment



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4.06. Access for Implementing Operation and Maintenance, Inspections, and Five-Year Reviews. The entity or person responsible for implementing the Operation and Maintenance Plan, conducting inspections, and conducting Five-Year reviews shall have reasonable right of entry and access to the Property for the purpose of implementing the Operation and Maintenance Plan, conducting inspections, and conducting Five-Year reviews until the Department determines that no further operation and maintenance or inspections are required.

## ARTICLE V

### ENFORCEMENT

5.01 Enforcement Failure of the Owner or Occupant to comply with this Covenant shall be grounds for the Department to require modification or removal of any Improvements constructed or placed upon any portion of the Property in violation of this Covenant. Violation of this Covenant, including but not limited to, failure to submit, or the submission of any false statement, record or report to the Department, shall be grounds for the Department to pursue administrative, civil or criminal actions.

## ARTICLE VI

### VARIANCE, TERMINATION, AND TERM

6.01. Variance Owner, or any other aggrieved person, may apply to the Department for a written variance from the provisions of this Covenant. Such application shall be made in accordance with Health and Safety Code section 25233.

6.02 Termination or Modification Owner, or any other aggrieved person, may apply to the Department for a termination or modification of one or more terms of this Covenant as they apply to all or any portion of the Property. Such application shall be made in accordance with Health and Safety Code section 25234.

6.03 Term. Unless ended in accordance with paragraph 6.02, by law, or by the Department in the exercise of its discretion, this Covenant shall continue in effect in perpetuity.

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ARTICLE VII  
MISCELLANEOUS

7.01 No Dedication Intended Nothing set forth in this Covenant shall be construed to be a gift or dedication, or offer of a gift or dedication, of the Property, or any portion thereof to the general public or anyone else for any purpose whatsoever.

7.02 Department References All references to the Department include successor agencies/departments or other successor entity

7.03. Recordation The Covenantor shall record this Covenant, with all referenced Exhibits, in the County of Los Angeles within ten (10) days of the Covenantor's receipt of a fully executed original

7.04. Notices Whenever any person gives or serves any Notice ("Notice" as used herein includes any demand or other communication with respect to this Covenant), each such Notice shall be in writing and shall be deemed effective: (1) when delivered, if personally delivered to the person being served or to an officer of a corporate party being served, or (2) three (3) business days after deposit in the mail, if mailed by United States mail, postage paid, certified, return receipt requested:

To Owner:

Boardwalk Company, LLC  
Irvin X. Rosen, manager  
659 W. Lee Blvd., Prescott, AZ 86303-6766

To Rosen's Electrical Equipment Company Responsible Party Group:

Rosen's Electrical Equipment Company Responsible Party Group  
c/o De Maximis, Inc  
Attn: Dean Charles  
5225 Canyon Crest Drive  
Building 200, Suite 253  
Riverside, CA 92507

,and

To Department:

Department of Toxic Substances Control  
9211 Oakdale Avenue  
Chatsworth, California 91311  
Attention: Rosen's Electrical Equipment Company Site Project Manager  
Brownfields and Environmental Restoration Program, Chatsworth Office

Any party may change its address or the individual to whose attention a Notice is to be sent by giving written Notice in compliance with this paragraph.

7.05. Partial Invalidity. If this Covenant or any of its terms are determined by a court of competent jurisdiction to be invalid for any reason, the surviving portions of this Covenant shall remain in full force and effect as if such portion found invalid had not been included herein.

7.06. Statutory References. All statutory references include successor provisions.

7.07. Inspection and Reporting Requirements. The Owner shall conduct an annual inspection and submit an Annual Inspection Report to the Department for its approval by January 15<sup>th</sup> of each year. The annual report, must include the dates, times, and names of those who conducted and reviewed the annual inspection report. It also shall describe how the observations were performed that were the basis for the statements and conclusions in the annual report (e.g., drive by, fly over, walk in, etc.). If violations are noted, the annual report must detail the steps taken to return to compliance. If the Owner or the party conducting inspections identifies any violations of this Covenant during the annual inspections or at any other time, the party identifying the violation must within 10 days of identifying the violation: determine the identity of the party in violation, send a letter advising the party of the violation of the Covenant and demand that the violation cease immediately. Additionally, copies of any correspondence related to the enforcement of this Covenant shall be sent to the Department within ten (10) days of its original transmission. However, Owner shall not be obligated to perform inspection and reporting requirements as long as such inspection and reporting requirements are performed by the REEC Group parties pursuant to Consent Agreement (Docket No. HSA-CA 08/09-130).

IN WITNESS WHEREOF, the Parties execute this Covenant

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Covenantor: Boardwalk Company, LLC

By: Irvin X. Rosen  
Title: manager  
Date: July 13, 2009

Department of Toxic Substances Control

By: Richard Gebert  
Title: DTSC Project Manager  
Date: 10/12/09

State of California

County of Ventura

On 10-12-09 before me,

C. Morrison / Notary Public  
(here insert name and title of the officer/notary),

Personally appeared Richard Gebert

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by

(Acknowledgment continues on next page)

(Acknowledgment continues from previous page)

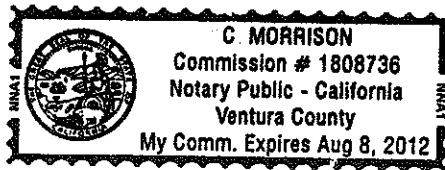
his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument

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I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct

WITNESS my hand and official seal

Signature C. Morrison (Seal)



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ARIZONA ALL-PURPOSE ACKNOWLEDGMENT

State of Arizona

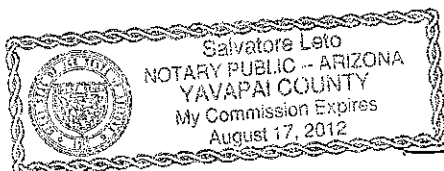
County of YAVAPAI

On 7-13-09 before me, SALVATORE LETO

personally appeared IRVING X ROSEN

☐ personally known to me -OR- ☒

proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

[Signature]

Signature of Notary

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form

CAPACITY CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

- ☐ INDIVIDUAL  
☐ CORPORATE OFFICER

\_\_\_\_\_

- ☐ PARTNER(S) ☐ LIMITED  
☐ ATTORNEY-IN-FACT  
☐ TRUSTEE(S)  
☐ GUARDIAN/CONSERVATOR

OTHER:

SIGNER IS REPRESENTING:  
NAME OF PERSON(S) OR ENTITY(IES)

\_\_\_\_\_

## EXHIBIT A

That portion of Lot "H" of the Coffman Partition of the Rancho Paso De Bartolo, in the County of Los Angeles, State of California, as per map recorded in book 78, page 25 of Miscellaneous Records, in the office of the county recorder of said county, lying northerly of the northerly line of San Pedro, Los Angeles and Salt Lake Railway, 100 feet wide.

EXCEPT that portion of Lot "H" described as follows:

Beginning at the most easterly corner of said Lot "H" thence along the northeasterly line of said lot, North  $62^{\circ} 39' 25''$  West, 514.87 feet to the easterly line of the 5 foot concrete ditch of Arroyo Ditch and Water Co.; thence along last mentioned line, South  $5^{\circ} 47' 35''$  West, 293.55 feet to the northerly line of San Pedro, Los Angeles and Salt Lake Railroad right of way, 100 feet wide; thence, along the northerly line of said right of way, South  $89^{\circ} 53' 45''$  East, 481.15 feet to the easterly line of said lot, thence North  $5^{\circ} 52' 45''$  East, 56.74 feet to the point of beginning.

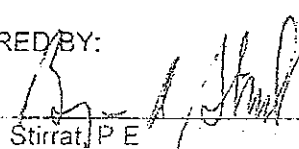
16

## EXHIBIT B

1 THAT PORTION OF LOT H OF COFFMAN PARTITION, IN THE CITY OF PICO  
2 RIVERA, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP  
3 RECORDED IN BOOK 78 PAGE 25 INCLUSIVE OF MISCELLANEOUS RECORDS, IN  
4 THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS  
5 FOLLOWS:

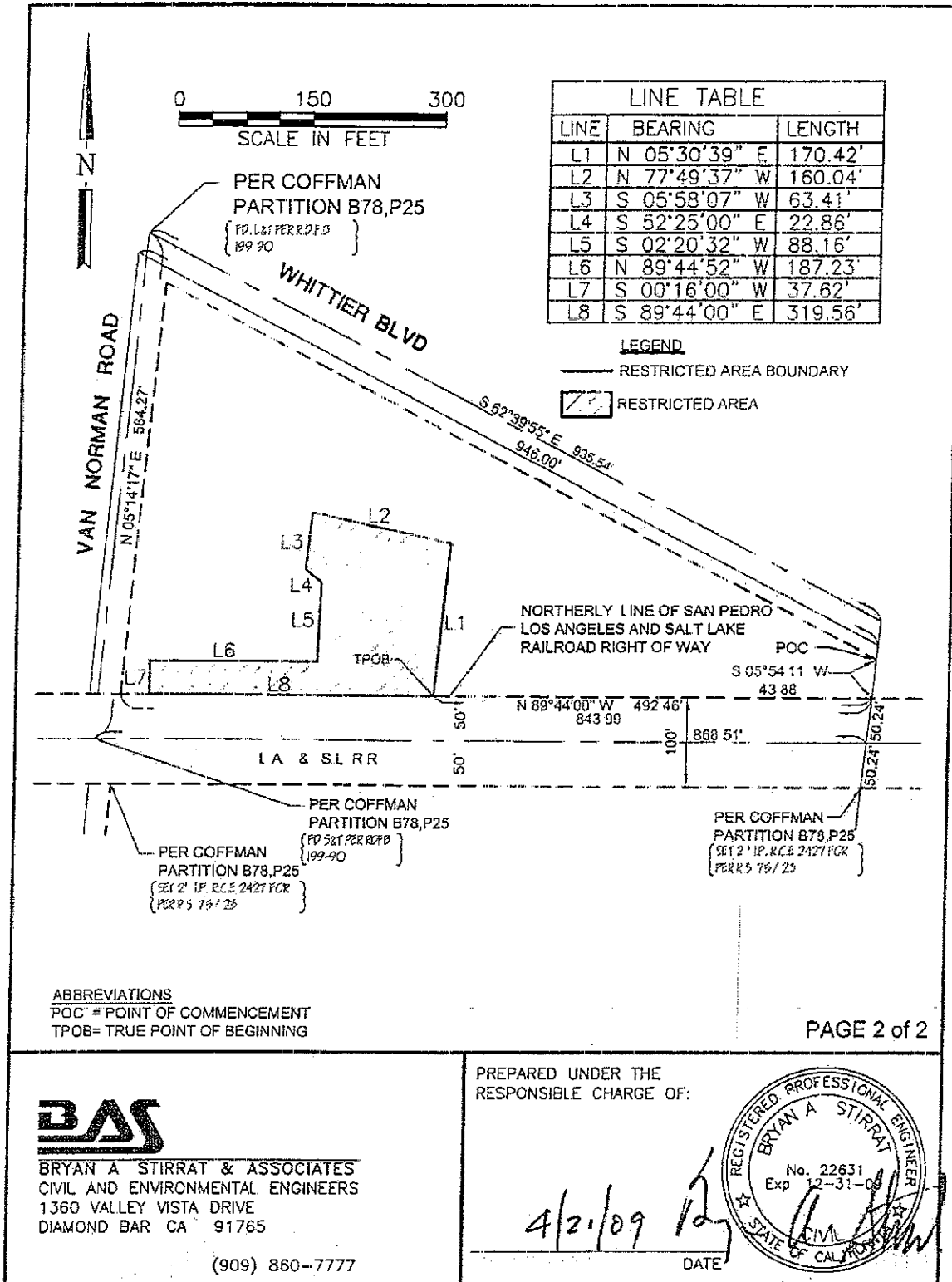
6  
7 COMMENCING AT THE NORTHEASTERLY CORNER OF SAID LOT H; THENCE  
8 SOUTH 05°54'11" WEST 43 88 FEET ALONG THE EASTERLY LINE OF SAID LOT,  
9 TO THE NORTHERLY LINE OF SAN PEDRO, LOS ANGELES AND SALT LAKE  
10 RAILROAD RIGHT OF WAY 100 00 FEET WIDE; THENCE ALONG THE NORTHERLY  
11 LINE OF SAID RIGHT OF WAY NORTH 89°44'00" WEST 492 46 FEET TO THE TRUE  
12 POINT OF BEGINNING; THENCE NORTH 05°30'39" EAST 170 42 FEET; THENCE  
13 NORTH 77°49'37" WEST 160 04 FEET; THENCE SOUTH 05°58'07" WEST 63 41  
14 FEET; THENCE SOUTH 52°25'00" EAST 22 86 FEET; THENCE SOUTH 02°20'32"  
15 WEST 88 16 FEET; THENCE NORTH 89°44'52" WEST 187 23 FEET; THENCE  
16 SOUTH 00°16'00" WEST 37 62 FEET TO THE NORTHERLY LINE OF SAN PEDRO,  
17 LOS ANGELES AND SALT LAKE RAILROAD RIGHT OF WAY 100 00 FEET WIDE;  
18 THENCE SOUTH 89°44'00" EAST 319 56 FEET ALONG THE NORTHERLY LINE OF  
19 SAID RIGHT OF WAY TO THE TRUE POINT OF BEGINNING

20  
21 PREPARED BY:

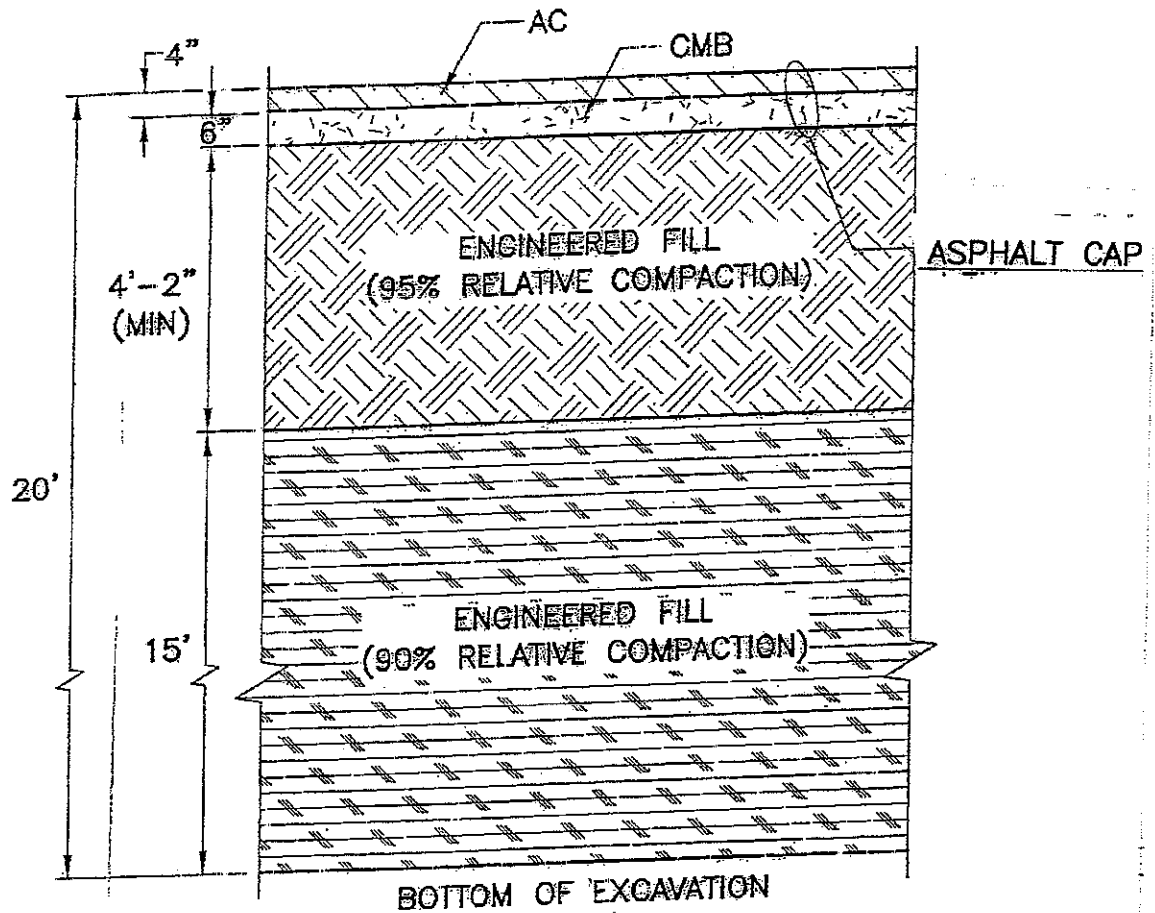
22   
23 Bryan A. Stirrat, P.E.  
24 RCE 22631



# EXHIBIT C



# EXHIBIT D

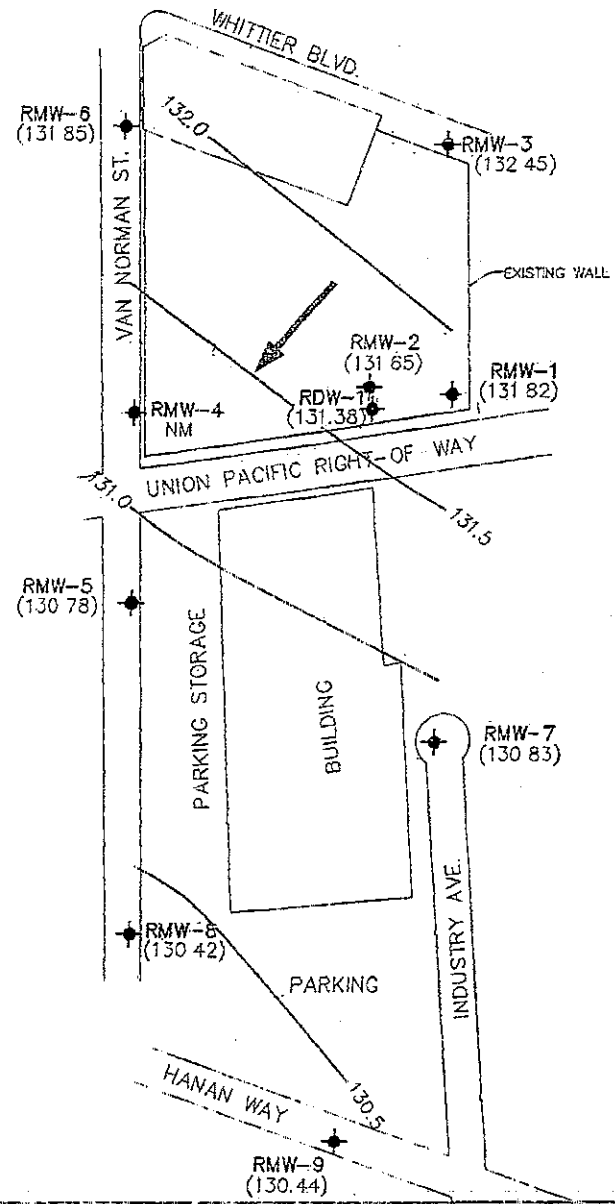


CAP DETAIL

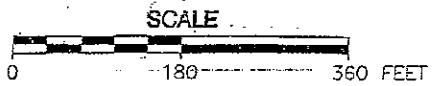
# EXHIBIT E

DRAWING NUMBER 21600711-A5

DRAWN BY MB Miller 9-22-99  
CHECKED BY  
APPROVED BY



- LEGEND**
- RMW-9  
MONITORING WELL
  - (130.42) GROUNDWATER ELEVATION (FEET ABOVE MEAN SEA LEVEL)
  - NM NOT MEASURED
  - 131.0 — ESTIMATED CONTOURS OF EQUAL GROUNDWATER ELEVATION
- NOTE: DATA FOR RW-1 NOT USED IN CONTOURS



ROSEN ELECTRICAL  
& EQUIPMENT COMPANY  
PICO RIVERA, CALIFORNIA

FIGURE 2-5a  
GROUNDWATER GRADIENT MAP  
AUGUST 2, 1999  
ROSEN ELECTRICAL & EQUIPMENT COMPANY